

Case No. 5:22-CV-276-D-BM

Defendants.

has not yet occurred. Plaintiffs anticipate that the Board will approve the proposed Settlement Agreement within 60 days, and if that occurs, Plaintiffs will promptly file a Notice dismissing all remaining claims against Defendants.

Accordingly, Plaintiffs presently assert no claim for an award of attorney's fees and litigation costs against Defendants, but reserve their right to do so if the Board does not approve the proposed Settlement Agreement. With Defendants' consent, Plaintiffs respectfully request that the Court extend their time to file a motion asserting any such claim until 30 days after the date on which the Board notifies Plaintiffs that it did not approve the proposed Settlement Agreement.

In support of this Motion, Plaintiffs state as follows:

1. Pursuant to its Order dated August 5, 2022 [D.E. 64], the Court entered a preliminary injunction that granted Plaintiffs the relief necessary to ensure that NCGP's candidates Michael Trudeau and Matthew Hoh appeared on North Carolina's 2022 general election ballot. As set forth in Plaintiffs' Memorandum of Law in support of this Motion, Plaintiffs are "prevailing parties" pursuant to 42 U.S.C. § 1988, and they are therefore entitled to an award of attorney's fees and litigation costs.

2. On August 16, 2023, the Court entered a text Order extending the time for Plaintiffs to file an application for an award of attorney's fees and litigation costs until October 23, 2023.

3. Plaintiffs have reached a proposed Settlement Agreement with Defendants that will resolve all claims Plaintiffs may assert against Defendants for an award of attorney's fees and litigation costs. The proposed Settlement Agreement is subject to approval by vote of the Board. Should the Board vote not to approve the proposed Settlement Agreement, Plaintiffs reserve their right to move for an award of attorney's fees and litigation costs against Defendants. Plaintiffs respectfully request that the Court extend their time to file such a motion until 30 days after the

date on which Defendants notify Plaintiffs that the Board did not approve the proposed Settlement Agreement. Plaintiffs have conferred through counsel with Defendants and Defendants consent to that request.

4. Plaintiffs respectfully request an award of \$47,415.00 in attorney's fees and \$228 in litigation costs against Intervenor. The attorney's fees and litigation costs requested against Intervenor are separate from those that form the basis for the proposed Settlement Agreement that Plaintiffs reached with Defendants. The attorney's fees and litigation costs requested herein were incurred due to Intervenor's participation in this litigation and Plaintiffs will not be compensated or reimbursed for them unless this Motion is granted. The basis for Plaintiffs' request is explained fully in the accompanying Memorandum of Law and in the declarations filed in support of this Motion.

5. The lodestar request for attorney's fees is broken down as follows:

| <u>Attorneys</u> | <u>Hours</u> | <u>Rate</u> | <u>Total</u> |
|-------------------------|--------------|-------------|---------------|
| Oliver Hall | 98.1 | \$450 | \$44,145.00 |
| Pooyan Ordoubadi | 10.9 | \$300 | \$3,270.00 |
| Total Attorney Lodestar | 109 | | \$47,415 |
| | | Multiplier: | <u>x 1.25</u> |
| | | Total Fees: | \$59,268.75 |

6. Each attorney listed above has filed a declaration providing his work log recording the attorney's hours for this case, and explaining the basis for the hourly rates requested. These are included as Exhibits A (Hall Declaration) and B (Ordoubadi Declaration) to this motion.

7. In addition, Plaintiffs have submitted declarations from two additional attorneys not involved in this case, establishing that the hourly rates requested are well within the prevailing

market rates for attorneys of similar background and experience and that the number of hours billed is reasonable. *See* Exhibit C (Sigmon Declaration); Exhibit D (Brooks Declaration). Finally, Plaintiffs have submitted additional declarations from Matthew Hoh, Rose Ellen Seeman, Anna Ordoubadi and Samantha Spence establishing that this case was considered undesirable in the North Carolina legal community, that Plaintiffs would have been unable to pursue this litigation had Attorney Oliver B. Hall not agreed to represent them *pro bono* and Attorney Pooyan Ordoubadi not agreed to serve as counsel of record at a reduced rate, and that and an enhancement above the lodestar figure is warranted. *See* Exhibit E (Hoh Declaration); Exhibit F (Seeman Declaration); Exhibit G (A. Ordoubadi Declaration); Exhibit H (Spence Declaration).

8. Plaintiffs also seek reimbursement for \$228.00 in litigation costs incurred as a result of Intervenor's intervention in these proceedings. The documentation for these expenses is included in the Bill of Costs submitted herewith.

9. The instant Motion covers only the fees and expenses incurred in this case through October 23, 2023. Plaintiffs reserve the right to file a supplemental motion for additional fees incurred in this case subsequent to October 23, 2023.

Wherefore, Plaintiffs respectfully request that this Court enter an order awarding them \$59,268.75 in attorneys' fees and \$228.00 in litigation costs incurred through October 23, 2023, and directing Intervenor to pay such attorney's fees and litigation costs. Plaintiffs further respectfully request that the Court extend their time to file a motion for award of attorney's fees and litigation costs against Defendants until 30 days after Defendants notify Plaintiffs, through counsel, that the Board did not approve the proposed Settlement Agreement that Plaintiffs and Defendants have reached, and to grant such other and further relief as the Court deems just and proper.

Dated: October 23, 2023

Respectfully submitted,

/s/Oliver B. Hall
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Counsel for Plaintiffs

**Local Civil Rule 83.1(d) Counsel*

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2023 the foregoing document was filed using the Court's CM/ECF system, which will effect service upon all counsel of record.

/s/Oliver B. Hall
Oliver B. Hall

Counsel for Plaintiffs